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SERVICE DATE - OCTOBER 8, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34598

PROGRESSIVE RAIL, INCORPORATED–CONTINUANCE IN CONTROL
EXEMPTION–WISCONSIN NORTHERN RAILROAD COMPANY, LLC

Decided: October 7, 2004

On October 5, 2004, Progressive Rail, Incorporated (PGR) filed a verified notice of exemption invoking the Board's class exemption under 49 CFR 1180.2(d)(2) to continue in control of Wisconsin Northern Railroad Company, LLC (WNRC), when WNRC becomes a rail carrier. The transaction is scheduled to be consummated no sooner than October 12, 2004 (7 days after the exemption was filed).

Concurrently, notices of exemption were filed by: (1) WNRC, in STB Finance Docket No. 34596, Wisconsin Northern Railroad Company, LLC–Lease and Operation Exemption–Rail Lines of Wisconsin Central, Ltd., seeking to lease and operate approximately 23.97 miles of rail line in Barron County, WI; and (2) PGR, in STB Finance Docket No. 34597, Progressive Rail, Incorporated–Lease and Operation Exemption–Rail Line of Union Pacific Railroad Company, seeking to lease and operate approximately 38.3 miles of rail line in Barron and Chippewa Counties, WI.

The Board's class exemption set forth at 49 CFR 1180.2(d)(2) includes only those transactions that involve the acquisition or continuance in control of a nonconnecting carrier or one of its lines where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any other railroad in their corporate family, and (iii) the transaction does not involve a Class I carrier. The record here shows that the rail lines in STB Finance Docket Nos. 34596 and 34597 connect in Barron County, WI. Because the rail lines connect, PGR may not use the Board's class exemption at 49 CFR 1180.2(d)(2) to obtain the necessary continuance in control authority. Therefore, the verified notice of exemption in this docket will be rejected.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The verified notice of exemption is rejected.
2. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary